



TERRITORY OF HEARD ISLAND AND MCDONALD  
ISLANDS

**Ordinances Amendment  
(Application of Criminal Code)  
Ordinance 2002 (No. 1)<sup>1</sup>**

**No. 1 of 2002<sup>2</sup>**

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I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Ordinance under the *Heard Island and McDonald Islands Act 1953*.

Dated 14 February 2002

PETER HOLLINGWORTH  
Governor-General

By His Excellency's Command

DAVID KEMP  
Minister for the Environment and Heritage

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**An Ordinance to amend various Ordinances to enable the application of the *Criminal Code***

- 1 Name of Ordinance**  
This Ordinance is the *Ordinances Amendment (Application of Criminal Code) Ordinance 2002 (No. 1)*.
- 2 Commencement**  
This Ordinance commences on gazettal.
- 3 Amendment of *Criminal Procedure Ordinance 1993***  
Schedule 1 amends the *Criminal Procedure Ordinance 1993*.
- 4 Amendment of *Environment Protection and Management Ordinance 1987***  
Schedule 2 amends the *Environment Protection and Management Ordinance 1987*.

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2	Ordinances Amendment (Application of Criminal Code) Ordinance 2002 (No. 1)	2002, 1
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**5 Amendment of *Weapons Ordinance 2001***

Schedule 3 amends the *Weapons Ordinance 2001*.

**Schedule 1 Amendments of *Criminal Procedure Ordinance 1993***

(section 3)

**[1] After section 4**

*insert*

**4A Application of the *Criminal Code***

Chapter 2 of the *Criminal Code* applies to offences against this Ordinance.

*Note* Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

**[2] Subsection 5 (2)**

*omit*

without reasonable excuse,

*insert*

unless he or she has a reasonable excuse,

**[3] After subsection 5 (2), including the penalty**

*insert*

- (3) An offence under subsection (2) is an offence of strict liability.

*Note 1* For *strict liability*, see section 6.1 of the *Criminal Code*.

*Note 2* A defendant bears an evidential burden in relation to whether or not he or she had a reasonable excuse (see section 13.3 of the *Criminal Code*).

**[4] Subsection 21 (5)**

*substitute*

- (5) A person must not fail to give effect to a requirement of a special constable under subsection (2), unless he or she has a reasonable excuse.

Penalty: 10 penalty units.

- (6) An offence under subsection (5) is an offence of strict liability.

*Note 1* For *strict liability*, see section 6.1 of the *Criminal Code*.

*Note 2* A defendant bears an evidential burden in relation to whether or not he or she had a reasonable excuse (see section 13.3 of the *Criminal Code*).

**[5] Paragraph 50 (2) (a)**

*omit*

refuse or

**[6] After subsection 50 (2), including the penalty**

*insert*

- (3) An offence under subsection (2) is an offence of strict liability.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

**[7] Section 51**

*omit*

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**Schedule 2      Amendments of *Environment  
Protection and Management  
Ordinance 1987***

(section 4)

**[1]      Section 4, definition of *take*, paragraph (a)**

*omit*

, trap or kill;

*insert*

or trap;

**[2]      After section 5**

*insert*

**5A      Application of the *Criminal Code***

Chapter 2 of the *Criminal Code* applies to offences against this Ordinance.

*Note* Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

**[3]      Subsection 12 (1)**

*omit*

knowingly or recklessly

**[4]      Paragraph 12 (1) (a)**

*omit*

\$10,000

*insert*

100 penalty units

**[5] Paragraph 12 (1) (b)**

*omit*

\$50,000.

*insert*

500 penalty units.

**[6] Subsection 12 (2), at the foot**

*insert*

*Note* A defendant bears an evidential burden in relation to the matters mentioned in subsection (2) (see section 13.3 of the *Criminal Code*).

**[7] Section 13**

*omit*

knowingly or recklessly

**[8] Paragraph 13 (c)**

*omit*

\$10,000

*insert*

100 penalty units

**[9] Paragraph 13 (d)**

*omit*

\$50,000.

*insert*

500 penalty units.

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**[10] Subsection 14 (1)**

*substitute*

- (1) Subject to subsection (2), a person must not:
- (a) bring any organism into the Territory; or
  - (b) bring any dead poultry or poultry products into the Territory; or
  - (c) take any organism in the Territory; or
  - (d) engage in conduct that results in death or injury to, or interference with, any organism in the Territory; or
  - (e) remove from the Territory any organism indigenous to the Territory; or
  - (f) land an aircraft, drive a vehicle or sail a vessel in the Territory; or
  - (g) leave any equipment, material or refuse in the Territory; or
  - (h) remove any soil or other geological matter from the Territory; or
  - (i) introduce any soil or other geological matter to the Territory; or
  - (j) engage in conduct that results in interference to any soil or other geological matter in the Territory; or
  - (k) collect any material in the Territory; or
  - (l) engage in conduct that results in a living organism that has been introduced into the Territory escaping in the Territory; or
  - (m) engage in conduct that results in interference to any buildings, historical relics, equipment, supplies or survey markers in the Territory; or
  - (n) engage in conduct that results in interference to the conduct of a scientific experiment that is the subject of a permit in the Territory.

Penalty:

- (a) in the case of an individual — 100 penalty units or imprisonment for 5 years, or both; or

(b) in the case of a body corporate — 500 penalty units.

**[11] Subsection 14 (2), at the foot**

*insert*

*Note* A defendant bears an evidential burden in relation to the matters mentioned in subsection (2) (see section 13.3 of the *Criminal Code*).

**[12] Paragraph 16 (1) (a)**

*after*

taken

*insert*

or killed

**[13] Section 18**

*substitute*

**18 Contravening conditions of permits**

A person who holds a permit must not engage in conduct that contravenes a provision of the permit.

Penalty:

- (a) in the case of an individual — 50 penalty units or imprisonment for 2 years, or both; or
- (b) in the case of a body corporate — 250 penalty units.



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**[14] Section 21**

*substitute*

**21 Return of inspectors' identity cards**

- (1) If a person:
- (a) has been issued with an identity card under subsection 20 (3); and
  - (b) ceases to be an inspector;
- the person must immediately return the identity card to the Minister.

Penalty: 2 penalty units.

- (2) An offence under subsection (1) is an offence of strict liability.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

**[15] Subparagraph 25 (3) (a) (i)**

*omit*

\$2,000

*insert*

20 penalty units

**[16] Subparagraph 25 (3) (a) (ii)**

*omit*

\$10,000;

*insert*

100 penalty units;

**[17] Subparagraph 25 (3) (b) (i)**

*omit*

\$1,000

*insert*

10 penalty units

**[18] Subparagraph 25 (3) (b) (ii)**

*omit*

\$5,000.

*insert*

50 penalty units.

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## Schedule 3      **Amendment of *Weapons Ordinance 2001***

(section 5)

### [1]      **After section 5**

*insert*

### 5A      **Application of the *Criminal Code***

Chapter 2 of the *Criminal Code* applies to offences against this Ordinance.

*Note* Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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### Notes

1. This Ordinance amends (in Schedule 1) Ordinance No. 2, 1993.  
This Ordinance also amends (in Schedule 2) Ordinance No. 1, 1987, as amended by No. 1, 1990.  
This Ordinance also amends (in Schedule 3) Ordinance No. 1, 2001.
2. Notified in the *Commonwealth of Australia Gazette* on 21 February 2002.